

ZONING BOARD OF APPEALS
Wednesday, January 17, 2007
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Tom Morgan, Chairman
Alice Howard
Fred Money
William Orr
David Peterson
Tom Przytulski, Jr.
Dan Roszkowski

Absent:

Staff: Todd Cagnoni – Manager of Current Planning
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Kerry Partridge – City Attorney, Legal Department
Frank Schmitt – Chief, Fire Prevention Division

Others: Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 6:30 P.M. A **MOTION** was made by Alice Howard to **APPROVE** the minutes of the December 19, 2006 meeting as submitted. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 7-0.

075-06 4336 Pepper Drive
Applicant Jessie & Lynn Lawrence
Ward 4 **Variation** to install a sixteen foot (16') by eighteen foot (18') turnaround extension to a
 driveway in the required front yard in an R-3, Multi-family Residential District
 Laid Over from December meeting

This item was heard at the December 19th 2006 meeting of the Zoning Board of Appeals and was Laid Over to allow the Applicant time to contact staff to work out alternative solutions to their request.

This property is located approximately 600 feet from the intersection of Pepper Drive and Alpine Road in the Pepper Hills Subdivision. Lynn Lawrence, Applicant, was present. She stated she had met with Catherine LaRosa in the Public Works Department and Ms. LaRosa had indicated she had no issue for right-of-way purposes for the applicant's proposal. Mr. Hollander explained that Ms. LaRosa is an engineer in the Public Works Department, and her input would only be for that portion of the driveway that would be in the right-of-way, but not the location of the driveway itself. A note from Ms. LaRosa presented by the applicant verified Mr. Hollander's statement. A sketch was presented by Mr. Hollander showing a solution to the Applicant's parking request. He stated the existing two-car garage is approximately 24 feet wide. He suggested the driveway be widened to the service sidewalk which would allow the parking of four vehicles – two inside the garage and two outside – without any vehicles blocking each other. Ms. Lawrence expressed that she did not want to do any other suggestion but the one she is proposing.

Mr. Przytulski stated his understanding was that the lay over was allowed so that the Applicant and Staff could look at other ways to widen the driveway. Ms. Lawrence stated she wants the driveway to be as proposed, not widened as the City is suggesting. Mr. Orr stated if the driveway were widened, it would be more in fitting in with others in the neighborhood.

Staff Recommendation is for Denial. No Objectors were present.

Chairman Morgan stated there were 4 members at the previous meeting, and although they did have an opportunity to read the minutes, he would allow the Applicant to review her previous concerns from the December meeting to indicate to the Board what she felt the hardship is that should allow the Variation. Ms. Lawrence reviewed her concerns.

A **MOTION** was made by Fred Money to **APPROVE** the Variation to install a sixteen foot (16') by eighteen foot (18') turnaround extension to a driveway in the required front yard in an R-3, Multi-family Residential District at 4336 Pepper Drive. The Motion was **SECONDED** by Alice Howard and was **DENIED** by a vote of 3-4 with David Peterson, William Orr, Tom Przytulski and Dan Roszkowski voting Nay.

075-06
Findings of Facts for a Variation
To Install a Sixteen Foot by Eighteen Foot Turnaround Extension
To a Driveway in the Required Front Yard
In an R-3, Multi-Family Residential Zoning District at
4336 Pepper Drive

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The required landscaping could be accommodated in the parking lot layout.
2. The conditions upon which a petition for a Variation is based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

079-06 Applicant Ward 1	<u>7XX North Lyford Road</u> Rockford Mass Transit District Zoning Map Amendment from C-2, Commercial Community District to C-3, Commercial General District and C-1, Limited Office District to C-3, Commercial General District Special Use Permit for a Planned Mixed Use Development for a Bus Terminal, Transfer Center, including joint development of retail spaces and parking Laid Over from December meeting
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Prior to the meeting, a written request from the Applicant was received to Lay Over this item to the February 21, 2006 Zoning Board of Appeals meeting.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Zoning Map Amendment from C-2, Commercial Community District to C-3, Commercial General District and C-1, Limited Office District to C-3, Commercial General District, and to **LAY OVER** the Special Use Permit for a Planned Mixed Use Development for a Bus Terminal, Transfer Center, including joint development of retail spaces and parking at 7XX North Lyford Road. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 7-0.

080-06 **3205 Kishwaukee Street**
Applicant Robert Calabrese
Ward 6 **Special Use Permit for a Planned Mixed-Use Development**
consisting of a single-family residence and a performance use of passenger vehicle sales that cannot satisfy the performance criteria of 600 feet from a residential district
Variation to reduce the required parking spaces from two (one fully enclosed) to one parking space (not fully enclosed)
Variation from the required Type "C" Landscape Buffer to remain "as is" on the west 1/3rd of lot in an C-3, Commercial General District
Laid Over from December meeting

This item was Laid Over from the December 19, 2006 meeting at the Applicant's request.

The subject property is located north of Highway 20 on Kishwaukee Street. There is C-3 zoning to the north, east, and south, but these areas have residential uses. Zoning to the west is R-1. Attorney Ann Dempsey and Robert Calabrese were present. Attorney Dempsey reviewed the Applicant's request. She stated the proposed use fits in with the City's 2020 Plan for this area. Used vehicle sales have taken place on this lot since Mr. Calabrese purchased the property. The lot is gravel, which Mr. Calabrese proposes to improve with brick. Attorney Dempsey stated it is impossible to provide landscaping to the west portion of the lot because of the closeness of an adjacent building. She reviewed the Findings of Fact, stating there are several other used car lots in the vicinity. She feels this use will increase the value of the property. She also stated there are motorcycle sales a half block away that was recently approved by the City.

No Objectors were present. Staff Recommendation is for Denial.

Mr. Cagnoni stated he had the opportunity to meet with the Applicant prior to this meeting. Mr. Cagnoni stated there have not been any outstanding violations on this property in the past for vehicle sales, but rather that Staff could not verify that vehicle sales was ever grandfathered in. He explained this property has residential uses to the north and south, where the approval for the motorcycle sales Attorney Dempsey referred to did not.

Mr. Calabrese stated there would be 12 vehicles on the lot. When asked about signage and lighting, he stated he would not change the location of the sign in the NE corner. When asked if the size would change, Mr. Calabrese stated he would like to have it professionally done. He stated he would not be doing any vehicle repairs. The storage shed on the site may or may not be removed. Mr. Przytulski stated the shed that was used as an office did not have running water. Attorney Dempsey stated Mr. Calabrese would operate the office out of his home and remain living there.

Chairman Morgan stated the City has really shortchanged themselves by allowing variations to landscaping, particularly along Kishwaukee. Attorney Dempsey pointed out that the variation would not be applicable to Kishwaukee, and was requested for the west portion of the property. Mr. Orr had concerns for lighting against the residential area. Mr. Cagnoni explained that an illumination plan would be required if this item was approved.

Regarding the use of brick paving instead of asphalt, Mr. Cagnoni stated the area shown as brick was a display area. He stated if done correctly and plans were provided, it could be acceptable. Mr. Hollander stated when one lot at a time is used for these types of applications, a lot of thought is not given to the overall area of the neighborhood. He also stated that because of the cost of brick paving and preparation required, the cost might be prohibitive. He felt an impervious surface would be more feasible. Mr. Calabrese has investigated the cost of using brick and feels it is something he can accomplish.

Mr. Roszkowski asked if the 2020 plan was more sensitive to residential use, or would it be more applicable to commercial use. Mr. Cagnoni stated staff's concerns for this particular proposal were that the footprint proposed was for a relatively small area. Had a commercial use proposal be presented that included a much larger area, Staff would look at the proposal from a different aspect. Putting a small commercial lot in with what is now residential was the concern.

A **MOTION** was made by William Orr to **DENY** the Special Use Permit for a Planned Mixed-Use Development consisting of a single-family residence and a performance use of passenger vehicle sales that cannot satisfy the performance criteria of 600 feet from a residential district; to **DENY** the Variation to reduce the required parking spaces from two (one fully enclosed) to one parking space (not fully enclosed); and to **DENY** the Variation from the required Type "C" Landscape Buffer to remain "as is" on the west 1/3rd of lot in an C-3, Commercial General District at 3205 Kishwaukee Street. The Motion was **SECONDED** by Fred Money and **FAILED TO CARRY** by a vote of 4-3.

A **SECOND MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development consisting of a single-family residence and a performance use of passenger vehicle sales that cannot satisfy the performance criteria of 600 feet from a residential district; to **APPROVE** the Variation to reduce the required parking spaces from two (one fully enclosed) to one parking space (not fully enclosed); and to **APPROVE** the Variation from the required Type "C" Landscape Buffer to remain "as is" on the west 1/3rd of lot in an C-3, Commercial General District at 3205 Kishwaukee Street. The Motion was **SECONDED** by Alice Howard and **CARRIED** by a vote of 4-3 with Tom Morgan, Dan Roszkowski and William Orr voting Nay.

ZBA 080-06
Findings of Fact for a Special Use Permit
For a Planned Mixed-Use Development
Consisting of a Single-Family Residence and a Performance Use
Of Passenger Vehicle Sales that Cannot Satisfy the Performance Criteria
of 600 Feet from a Residential District in a C-3, Commercial General District at
3205 Kishwaukee Street

Approval of this Special Use Permit for a Planned Mixed-Use Development is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit for a Planned Mixed-Use Development will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit for a Planned Mixed-Use Development will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use of a Planned Mixed-Use Development will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.

5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use of a Planned Mixed-Use Development shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

ZBA 080-06
Findings of Fact for a Variation
To reduce Required Parking Spaces from Two (One Fully Enclosed)
to One Parking Space (Not Fully Enclosed)
In a C-3, Commercial General District at
3205 Kishwaukee Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 080-06
Findings of Fact for a Variation
From the Required Type "C" Landscape Buffer
To Remain "As Is" on the West One-Third of Lot
In a C-3, Commercial General District at
3205 Kishwaukee Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.

3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

081-06 7240 Walton Street
 Applicant Jennifer Mowen/Greenberg Farrow
 Ward 1 **Special Use Permit** for alcohol sales within a sit-down
 restaurant in a C-3, Commercial General Zoning District

This property is located east of Buckley Drive between East State Street and Walton Avenue and is currently vacant land. Jennifer Mowen reviewed the request for Special Use Permit. Ms. Mowen represents Texas Roadhouse restaurant. She stated this is part of a larger development which will also consist of a bank and strip mall. She explained that the outdoor patio will only have benches and will serve as a waiting area for seating in the restaurant. No tables will be outdoors. The inside bar will seat 40 people. She presented elevations of the building proposed.

Chairman Morgan asked if there were other models of this restaurant that looked better than what was presented. Ms. Mowen stated there may be changes that could be made. Other members of the Board felt the design could be improved upon. Mr. Cagnoni stated there could be conditions added that would allow staff to have input into the design of the building. Mr. Roszkowski stated the proposed drawing submitted extends the proposed area all the way to the corner. His concern is that the proposal stay with what the vote is and not changed when the actual area is built. Mr. Cagnoni explained that any further sale of alcohol for areas other than Texas Roadhouse would have to come before the Board.

Staff Recommendation was for Approval with 3 conditions. No Objectors were present. The Board wished to add a 4th condition which would require the applicant to submit a revised elevation drawing for Staff review and approval.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for alcohol sales within a sit-down restaurant in a C-3, Commercial General Zoning District at 7240 Walton Street. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions:

1. Compliance with all City of Rockford Liquor Codes.
2. The freestanding sign must be low profile and not more than eight feet (8') tall.
3. The sale of liquor by the drink is in conjunction with the restaurant.
4. A revised elevation plan to be submitted for Staff review and approval

ZBA 081-06
Findings of Fact for a Special Use Permit
For the Sale of Liquor by the Drink
In Conjunction with a Sit-Down Restaurant
In a C-3, Commercial General Zoning District at
7240 Walton Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District in which it is located.

ZBA 081-06
Findings of Fact for a Special Use Permit
For the Outdoor Sale of Liquor by the Drink
In a C-3, Commercial General Zoning District at
7240 Walton Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District in which it is located.

082-06

Applicant
Ward 6

3030 11th Street

First Rockford Group

- (A) **Variation** to reduce the Type "C" Landscape Buffer along the eastern property line from the required twenty (20) feet to two (2) feet wide
- (B) **Variation** to reduce the Type "C" Landscape Buffer along the northern property line from the required twenty (20) feet to two (2) feet wide
- (C) **Variation** to reduce the building setback along the northern property line from the required six (6) feet to two (2) feet
- (D) **Variation** to reduce the Perimeter Landscape Strip along Pershing Avenue from the required ten (10) feet to four (4) feet, in a C-3, Commercial General Zoning District

This property is located on the northeast corner of 11th Street and Pershing Avenue and is currently vacant.

Sunil Puri and Ben Bernsten from First Rockford Group were present. Mr. Bernsten reviewed the application. This property was previously Bob's Hardware. The building has been demolished. Mr. Bernsten stated a national retailer desires to locate in this area and these variations are needed to make this development possible. Elevations of the block constructed building were shown. The proposed building will be approximately 10,000 square foot. Mr. Puri stated the previous building on this property was 1700 square feet larger than the one being proposed. Mr. Bernsten stated the site plan incorporates the City's input. The parking area, lighting, and landscaping will be new. A sidewalk will be installed along Pershing Avenue. Mr. Puri stated the previous building had zero setback and that the property does not have the width to accommodate construction without a variation. The existing cut on 11th Street is being removed.

Staff Recommendation was for Approval with 4 conditions. Objectors were present.

Attorney Robert Hanland, and Father Michael Black were present as Objectors. Attorney Hanland represented Father Black as Pastor of St. Edwards Parish. He stated the Applicant failed to present any hardship, and felt this proposal would have a hardship on the church. Attorney Hanland further stated Mr. Puri assumed the risk of conforming to code when he purchased this property. The back of the building abuts Father Black's home and will be 2 feet from the lot line, inhibiting the lighting and view to the windows in the residence. He also feels this building will cast a shadow over the property of St. Edwards. Attorney Hanland stated the codes for setback were adopted by the City to protect the surrounding area and felt there is no reason this building could not be built 6 feet shorter. There is concern that no name of the tenant has been given, and no guarantee the intended tenant will be the one to occupy this space.

Father Black stated the Rectory goes up to approximately 5 to 8 feet of the applicant's lot line. The proposed building is 18 feet tall and would interfere with the playground and lighting. He stated he agrees with Attorney Hanland's statement that the lot is ugly and needs improvement, but also stated there is no reason for the Applicant to leave this area unclean and vacant. Father Black stated the Applicant's request is purely for financial gain. It does not have to be this building, and does not have to be this close to his home. He further stated the size or layout of the property has not changed and this was known at the time Mr. Puri purchased the property.

Sunil stated they do have a tenant, but it is not good practice to sign a lease until they know if these variations will be granted. They have added 15 feet of landscaping along 11th Street. He explained the building size is dictated by the aisle width that the store requires. He further stated Bob's Hardware was about 8 or 9 feet from the rectory. Father Black verified that this area was actually an alley. Mr. Cagnoni stated there are plans for an expanded landscaped area south of Persian Drive and expanded landscaping area to other portions of the property. He further explained that Staff and the Applicant had looked at several other development plans and options and the one being presented appeared to be the best use of this property and the best fit in the City's plans for this area.

A **MOTION** was made by Fred Money to **APPROVE** the (A) Variation to reduce the Type "C" Landscape Buffer along the eastern property line from the required twenty (20) feet to two (2) feet wide; to **APPROVE** the (B) Variation to reduce the Type "C" Landscape Buffer along the northern property line from the required twenty (20) feet to two (2) feet wide; to **APPROVE** the (C) Variation to reduce the building setback along the northern property line from the required six (6) feet to two (2) feet; and to **APPROVE** the (D) Variation to reduce the Perimeter Landscape Strip along Pershing Avenue from the required ten (10) feet to four (4) feet, in a C-3, Commercial General Zoning District at 3030 11th Street. The Motion was **SECONDED** by Dan and **CARRIED** by a vote of 7-0. Approval is subject to the following conditions:

1. Removal of the asphalt that is located along the property line adjacent to Pershing Avenue and replacing it with green space.
2. Submittal of an elevation plan for staff review and approval.
3. Submittal of an illumination plan for staff review and approval.
4. Submittal of a revised site plan and landscaping plan for staff review and approval.

ZBA 082-06
Findings of Fact for a Variation
To Reduce the Type "C" Landscape Buffer
Along the Eastern Property Line From the Required
Twenty (20) Feet to Two (2) Feet Wide
In a C-3 Commercial General Zoning District at
3030 11th Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 082-06
Findings of Fact for a Variation
To Reduce the Type "C" Landscape Buffer
Along the Northern Property Line from the Required
Twenty (20) Feet to Two (2) Feet Wide
In A C-3, Commercial General Zoning District at
3030 11th Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 082-06
Findings of Fact for a Variation
To Reduce the Building Setback Along the Northern Property Line
From the Required Six (6) Feet to Two (2) Feet
In a C-3 Commercial General Zoning District at
3030 11th Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.

4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 082-06
Findings of Fact for a Variation
to Reduce the Perimeter Landscape Strip
along the Required Ten (10) Feet to Four (4) Feet
In a C-3, Commercial General Zoning District at
3030 11th Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

083-06	<u>20XX 20th Street</u>
Applicant	Forest City Developers
Ward 8	Modification of Special Use Permit #101-03 for a Planned Residential Development for One, two-family residence and Two, four-family residence with a revised site plan and landscaping plan in a R-2, Two-family Residential Zoning District

This property is located on the northeast corner of 20th Street and Wesleyan Avenue and currently consists of a two-family residence. Paul Glendenning, Eagle Land Development, was present. He stated he had spoken with Alderman Nancy Johnson and feels she is satisfied with their proposal. Chairman Morgan stated the existing two-family has grass growing up around it, looks ugly, and was never completed. Mr. Glendenning stated the original owner did not finish his project and it is the intent of the Applicant to do so. Mr. Cagnoni verified these units would not be allowed as rental units if the development of condominiums does not sell. He did explain that the City would be agreeable to short-term rentals during the development of the project in the initial completion of the condos. Mr. Glendenning stated it was the Applicant's intent to make improvements to the existing building as well. Four landscape berms will be installed as well as a vinyl fence for a better appearance and for easier preservation than a wood fence.

Tom Morgan asked if this area still flooded. Mr. Hollander stated the original plan was outside of the flood plain. These buildings will have no basements. Elevations presented were not finalized – Mr. Glendenning indicated they would like to improve on them. A general floor plan was presented, with the statement that there might be some minor changes.

Staff Recommendation was for Approval with 1 condition. Objectors were present.

Eric Sundberg, 2024 20th Street is an adjacent property owner to the existing building. He stated this building has been vacant from the start of the original project, with no fencing, blacktop or landscaping. The building has been broken into twice that he knows of and vagrants have been removed from the property. Fascia on the building has come off and has not been replaced. His concern is that the same situation will occur with the proposed units if they do not sell. He stated this property still floods.

Judy Bredeson, 2031 21st Street is also an adjacent property owner, living directly behind the existing building. She stated she was an objector to the original project two and a half years ago. She felt the existing building cannot be rented or sold and yet someone now wishes to build more on the same lot. She stated the previous owner promised to put in a privacy fence but this never happened. Some of the neighbors are elderly and planned to stay in their homes. She stated if all of these units are rented, then traffic congestion will occur. She requested the Board wait until this building is sold before this Applicant is allowed to build.

In response, Mr. Glendenning agreed with the Objector's concerns. He stated the Applicants have spoken with Staff regarding flooding and that some of these issues raised by the Objectors were caused by the abandonment of the property by the previous owner.

Mr. Hollander stated these units would be out of the flood plan and does not feel that the units themselves would be in danger of flooding. Mr. Cagnoni stated preliminary drainage work has been done, and the sidewalk installed. The property itself is not in a flood plain. Staff believes this plan is reasonable and can be successful. He pointed out that the previous owner has gone bankrupt and cannot continue the project and this property will remain in its existing condition until someone takes the initiative to purchase it for improvement.

Tom Morgan asked if conditions could be added that previous problems such as the fence and landscaping be completed before the other buildings are constructed. Mr. Glendenning stated it was their plan to finish up the first unit before building new. He stated these condos will be in the \$110,000-\$115,000 price range, maybe lower. Chairman Morgan feels the Applicant, Dan Hauser, has a good reputation from his previous projects. Attorney Partridge suggested a condition be added that the property be maintained to City code.

A **MOTION** was made by Alice Howard to **APPROVE** the Modification of Special Use Permit #101-03 for a Planned Residential Development for One, two-family residence and Two, four-family residence with a revised site plan and landscaping plan in a R-2, Two-family Residential Zoning District at 20XX 20th Street. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 6-1 with Tom Przytulski voting Nay. Approval is subject to the following conditions:

1. Submittal of a landscaping plan, building elevation plan and floor plan for staff's review and approval
2. Privacy fence and landscaping on the existing development to be completed prior to construction
3. Property must be kept up to City code during construction

ZBA 083-06
Findings of Fact for a Modification of Special Use Permit
For a Planned Residential Development #101-03
For One, Two-Family Residence and Two, Four-Family Residence
With a Revised Site Plan and Landscaping Plan
In an R-2, Two-Family Residential District at
20XX 20th Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. Adequate landscaping will be provided to buffer less intense uses in the surrounding area.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the R-2 District. The proposed density of ten dwelling units per acre is in conformance with the maximum density of 3,850 square feet per unit in the R-2 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-2 Zoning District in which it is located.

With no further business to come before the Board, the meeting was adjourned at 8:35 P.M.

Respectfully submitted,

Sandra Hawthorne
Administrative Assistant
Planning Division